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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY EF DEPUTY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. CARLOS H. PONCE Defendant.	)	MAGISTRATE CASE NO. '08 MJ 8649 COMPLAINT FOR VIOLATION OF: Title 18, United States Code, Section 2252(a)(4)(B) Possession of visual depictions of Minors engaged in Sexually Explicit Conduct

The undersigned complainant being duly sworn states:

On or about August 23, 2007, within the Southern District of California, defendant CARLOS H. PONCE did knowingly possess one or more matters, to wit, a computer, that contained visual depictions that had been shipped in interstate commerce and that were produced using materials that had been mailed and shipped and transported in interstate and foreign commerce, by various means including by computer, and the production of said visual depictions involved the use of minors engaging in sexually explicit conduct as the term is defined in Title 18, United States Code, Section 2256, and the visual

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depictions were of such conduct; in violation of Title 18, United States Code, Section 2252(a)(4)(B).

The complainant states that this complaint is based on the attached Statement of Facts incorporated herein by reference.

SCOTT R. McDERMOTT
Special Agent
Federal Bureau of Investigation

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 15TH DAY OF JULY 2008.

PETER C. LEWIS
UNITED STATES MAGISTRATE JUDGE

UNITED STATES OF AMERICA
v.
CARLOS H. PONCE

STATEMENT OF FACTS

I am a Special Agent with the Federal Bureau of Investigation (FBI), and have been so employed for approximately 3 years. I am currently assigned to the Imperial County Resident Agency of the San Diego Field Office, where I investigate crimes concerning child exploitation and the receipt, possession, production, and transmission of child pornography.

On May 2, 2007, SA Stacie Lane of the Innocent Images National Team of the FBI, while located inside an FBI Facility in Calverton, Maryland, using an Internet connected computer, launched a specialized version of the peer-to-peer file sharing program LimeWire. This version of LimeWire allowed SA Lane to connect directly to other peer-to-peer users on the internet for the purpose of downloading files. These internet subscribers can be identified through a unique set of numbers known as an Internet Protocol Address (hereafter IP Address). On this date the user assigned the IP Address 70.230.203.60 was making files available that bore names consistent with child pornography.

Based on this information SA Lane connected with the user and downloaded 7 files, several of which depicted children engaging in sexual acts. A Department of Justice Administrative Subpoena served upon SBC Internet Services for IP Address 70.230.203.60 confirmed that CARLOS H. PONCE, of 1683 South 5th Street, Apartment H, El Centro, California, was the subscriber assigned the address during the time of the downloads.

On August 23, 2007, agents with the FBI executed a federal search warrant on the residence of PONCE, located at 1683 South 5th Street, Apartment H, El Centro, California.

During the execution of this warrant, agents advised PONCE that he was not under arrest and was not required to answer any questions asked by agents. PONCE chose to speak with agents and acknowledged that he was the owner of several computers and data storage devices located in his apartment. He further admitted to using the peer-to-peer file sharing program LimeWire to download child pornography off of other internet users' computers.

A forensic review of the computers and data storage devices seized from his apartment revealed 140 movie files depicting child pornography, 38 of which were identified by the National Center for Missing and Exploited Children as being previously identified movies depicting child pornography utilizing identified child victims. A total of 1001 image files depicting child pornography were found on the computers and data storage devices, 143 of which were identified by the National Center for Missing and Exploited Children as being previously identified pictures depicting child pornography utilizing identified child victims.